IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 905 of 1996

Between:

Avula Jagannadham S/o. Venkataramaih
Kunavaram (M) Khammam District.

..... PETITIONER

AND

1 Avula Nagamaiah, President, Marrigudem Primary Agrl. Coop. Society Ltd., No.D.1247.
Marrigudem, Krnavaram Mandal, Khammam District.
2 Marrigudem Primary Agrl. Coop. Society Ltd., Reg.No. D.1247,
district, Marrigudem, Kunavaram (M), Khammam, rep by its Secretary.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the Letter dated 3.1.1996 of the 1st Respondent (i.e) President, Marrigudem Primary Agrl. Coop. Society Ltd., No. D.1247, Marrigudem, Kunavaram Mandal, Khammam District, issued pursuant to the Resolution No.3, dt. 2.1.1996 of the Managing Committee of the said society as illegal, arbitrary, unjust, violative of Sec.47 of the A.P. Shops and Establishment Act 1988 besides being against the cardinal principles of natural justice apart from being violative of Articles 14 and 21 of the Constitution of India and hence void.

Counsel for the Petitioner:MR.D.V.BHADRAM

Counsel for the Respondents : MR.B.VISWANATHA REDDY

The Court made the following :

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ORDER:

Heard both sides.

The petitioner herein is the employee of the second respondent herein, files this Writ Petition inter alia, declaring the proceedings dated 3.1.1996 of the first respondent issued in pursuance of the resolution No. 3 dated 2.1.1996 of the Managing Committee removing the petitioner from service as illegal and arbitrary and also violative of Section 47 of the A.P. Shops and Establishment Act, 1988.

Few facts which are necessary for disposal of the Writ Petition are that admittedly, the petitioner has been appointed as Clerk with the respondent society in April 1977 and now under the impugned proceedings his services were sought to be terminated only on the ground that there being no dealings or any activity with the society and therefore, he has to be removed and this action is proceeded with by the resolution No. 3 of the Managing Committee on 2.1.1996. The main grievance of the petitioner is that such termination is totally violative of Section 47 of the A.P. Shops and Establishment Act, 1988 and also violative of Section 25 of the Industrial Disputes Act.

The learned counsel appearing on behalf of the respondents contested the claim denying such entitlement.

Having heard the submissions and also on perusal of the material, it is seen that there cannot be any dispute that the petitioner is an employee of the respondent society and under the impugned proceedings his services ought to be terminated on

the ground that there are no such activities nor any dealings in the affairs of the society and therefore, his services are not required and accordingly terminated. But the fact remains is that the provisions of A.P. Shops and Establishments Act, 1988 and also the provisions of the Industrial Disputes Act, 1947 are applicable to the respondent Society. The case of the petitioner is that the provisions mentioned above are not complied with before issuing the impugned proceedings in question. Further it is to be noticed that this Writ Petition has been filed on 23.1.1996 and this court has granted interim stay in WPMP NO. 1070 of 1996 as per order dated 25.1.1996 and the said order has also been made absolute pending disposal. Thus the petitioner is being continued in service in the respondent society. In view of the same, I do not find any justification either in law or in facts in rejecting the case of the petitioner.

Accordingly, the Writ Petition is allowed and the impugned orders dated 3.1.1996 and 2.1.1996 are set aside. It is open for the respondents to pass fresh orders after complying with the requirements under law.

24.11.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, The Twenty Fourth Day of November Two Thousand and Four.

To

1 The President, Marrigudem Primary Agrl. Coop. Society Ltd., No.D.1247. Marrigudem, Krnavaram Mandal, Khammam District.

2 The Secretary, Marrigudem Primary Agrl. Coop. Society Ltd., Reg.No. D.1247, district,
Marrigudem, Kunavaram (M), Khammam

3. 2 CCs to G.P for Cooperative Societies, High Court Buildings, High Court of A.P., Hyderabad. (OUT)

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